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MAR 15 2005

GP140-04.UT

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Linnen et al.)	Group Art Unit: 1648
)	
Serial No.:	10/688,489)	
)	
Filed:	October 16, 2003)	
)	
For:	Compositions and Methods for Detecting West Nile Virus)	
)	
Examiner:	Zachariah Lucas)	
)	

RESPONSE TO RESTRICTION REQUIREMENT
AND
PRELIMINARY AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Communication mailed from the Patent and Trademark Office on December 16, 2004, please consider the following.

An **Election in Response to Restriction Requirement** begins on page 2 of this paper.

Amendments to the Claims are reflected in the Listing of Claims which begins on page 3 of this paper.

Remarks begin on page 5 of this paper.

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If you have received this communication in error, please notify Gen-Probe immediately by telephone and return the original message to us at the below-indicated address via regular U.S. mail. Thank you.

FROM: Michael J. Gilly
Gen-Probe Incorporated
10210 Genetic Center Drive
San Diego, California 92121
Phone No. (858) 410-8657
Facsimile No. (858) 410-8928

TO: Examiner: LUCAS, Zachariah
Group 1648
U.S. Patent & Trademark Office
Facsimile No. (703) 872-9306

Number of pages (including this cover page): 11

In re Patent Application of:) Group Art Unit: 1648
LINNEN *et al.*) Examiner: LUCAS, Zachariah
Serial No. 10/688,489) Atty. Docket No. GP140-04.UT
Filed: October 16, 2003) Confirmation No. 3927
Title: COMPOSITIONS AND METHODS) Date: March 15, 2005
FOR DETECTING WEST NILE VIRUS)

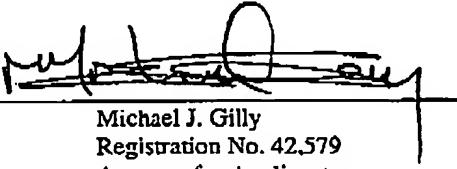
Attached hereto are:

- 1) Transmittal Form (PTO/SB/21), 1 pg.;
 - 2) Request for Extension of Time - 2 Mo. (PTO/SB/22), in duplicate, 2 pgs.;
 - 3) Fcc Transmittal (PTO/SB/17), in duplicate, 2 pgs.; and
 - 4) Response to Restriction Requirement and Preliminary Amendment, 5 pgs.
-

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I hereby certify that this correspondence (and any referred to as attached) is being sent by facsimile to 703-872-9306 on the date indicated below to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450.

Date: March 15, 2005

By: 

Michael J. Gilly
Registration No. 42,579
Attorney for Applicants

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0851-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission 11

Application Number	10/588,489
Filing Date	October 16, 2003
First Named Inventor	LINNEN et al.
Art Unit	1848
Examiner Name	LUCAS, Zachariah
Attorney Docket Number	GP140-04.UT

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ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Facsimile Cover Sheet
<input type="checkbox"/> Remarks Response to Restriction Requirement and Preliminary Amendment		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Gen-Probe Incorporated	
Signature		
Printed name	Michael J. Gilly	
Date	March 15, 2005	Reg. No. 42,579

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature 

Typed or printed name Michael J. Gilly

Date March 15, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04)

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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2005

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 450.00)

Complete if Known

Application Number	10/688,489
Filing Date	Oct. 16, 2003
First Named Inventor	LINNEN et al.
Examiner Name	LUCAS, Zachariah
Art Unit	1648
Attorney Docket No.	GP140-04.UT

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METHOD OF PAYMENT (check all that apply)

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Deposit Account Deposit Account Number 07-0835 Deposit Account Name Gen-Probe Incorporated

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below Charge fee(s) indicated below, except for the filing fee
 Charge any additional fee(s) or underpayments of fee(s) Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Small Entity Fee (\$)	Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims $\frac{x}{20}$ - 20 or HP = $0 \times 0 = 0.00$

HP = highest number of total claims paid for, if greater than 20

Multiple Dependent Claims	
Fee (\$)	Fee Paid (\$)

Indep. Claims $\frac{x}{3}$ - 3 or HP = $0 \times 0 = 0.00$

HP = highest number of independent claims paid for, if greater than 3

*Previously paid for
82 total / 6 indep. claims

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	Fee Paid (\$)

4. OTHER FEE(S)	Fee Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	
Other: Petition for Extension of Time - 2 Mo.	\$450.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 42,579	Telephone (858) 410-8657
Name (Print/Type)	Michael J. Gilly		Date March 15, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FEE TRANSMITTAL For FY 2005

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TOTAL AMOUNT OF PAYMENT (\$ 450.00)

Complete if Known

Application Number	10/688,489
Filing Date	Oct. 16, 2003
First Named Inventor	LINNEN et al.
Examiner Name	LUCAS, Zachariah
Art Unit	1848
Attorney Docket No.	GP140-04.UT

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____

Deposit Account Deposit Account Number: 07-0835 Deposit Account Name: Gen-Probe Incorporated

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below Charge fee(s) indicated below, except for the filing fee
 Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 Credit any overpayments

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fees Paid (\$)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Small Entity Fee (\$)	Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims #	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims
13 - 20 or HP = 0	x 0	= 0.00		Fee (\$)

HP = highest number of total claims paid for, if greater than 20

Indep. Claims #	Extra Claims	Fee (\$)	Fee Paid (\$)	Fee (\$)	Fee Paid (\$)
01 - 3 or HP = 0	x 0	= 0.00			

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#Previously paid for
82 total / 6 indep. claims**3. APPLICATION SIZE FEE**

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Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	/ 50 = _____	(round up to a whole number) x _____ = _____		

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Non-English Specification, \$130 fee (no small entity discount)

Other: Petition for Extension of Time - 2 Mo. _____ \$450.00

SUBMITTED BY	Signature	Registration No. (Attorney/Agent)	Telephone
Name (Print/Type)	Michael J. Gilly	42,579	(858) 410-8657

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